

07 Civ. 8813 (RWS)

**DECLARATION OF
JOHN A. ORZEL IN OPPOSITION TO DEFENDANT'S MOTION TO
VACATE
MARITIME ATTACHMENT**

Exhibit O

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

| | |
|---|---|
| EP-TEAM, INC. and PROSHIPLINE, INC. |) |
| |) |
| |) |
| Plaintiff, |) |
| |) |
| v. |) |
| |) |
| ASPEN INFRASTRUCTURE, LTD. f/k/a SUZLON INFRASTRUCTURE, LTD. |) |
| |) |
| |) |
| Defendant. |) |
| |) |

Case No. H-07-2549

AFFIDAVIT OF DAVID R. PULK

I, David R. Pulk, declare under penalty of perjury that the following is true and correct.

1. I am the Chief Executive Officer and President of EP Team, Inc. ("EP Team") and a Director of ProShipLine, Inc. ("ProShipLine") and am, and at all material times have been, a duly authorized agent for both of those entities, in the above-entitled and numbered cause of action.

2. Contrary to the statement made by Mr. Sanjivv Bangad in his affidavit submitted in support of the Motion for Stay on behalf of Aspen Infrastructures, Ltd. ("AIL"), the initial "Sales and Logistics Service Agreement" (the "Contract") between Suzlon Infrastructure, Ltd. ("SIL") and EP Team, Inc. was entered into on April 19, 2006. Later, on April 20, 2006 an amendment to the Contract was agreed upon between the parties. After that, on November 10, 2006, a second amendment to the Contract was agreed upon between the parties. I have attached hereto a true and correct copy of the entire Contract with both of the amendments as Exhibit 1. On April 11, 2007, SIL changed its name to AIL. Thereafter ProShipLine dealt with AIL regarding performance within the scope of work under the Contract.

3. At the time of the negotiation of the Contract it was requested by SIL that EP Team provide for exclusivity and dedicated services to SIL for performance under the Contract and for which EP Team agreed to establish a new company to which it would assign its performance under the Contract. Sometime between April 20, 2006 and May 9, 2006, ProShipLine, Inc. was formed and EP Team assigned its rights and duties under the Contract to it with complete notice to and the approval of AIL.



4. All of the bank accounts maintained for the performance of the Contract were in the name of ProShipLine. With the exception of a loan from EP Team to SIL in order to allow the discharge of freight from the first vessel under the terms of the Contract, and at the specific request of SIL, EP Team did not send or receive any money pertaining to the performance of the Contract, a fact which was always known by SIL/AIL.

5. Any claims which AIL has from the performance of the Contract are against ProShipLine rather than EP Team.

6. After AIL unilaterally terminated the Contract without cause on August 1, 2007, and without any agreement on the resolution of the differences between AIL and ProShipLine, EP Team and ProShipLine commenced this lawsuit in the Federal Court in Houston to seek direction on the application of law to the dispute, the implementation of the arbitration provision in the Contract and the safeguarding of the funds remaining in the ProShipLine impress account.

7. ProShipLine believes that AIL breached the Contract and that ProShipLine will be entitled to recover damages against AIL, either in a lawsuit or an arbitration, far in excess of that amount.

8. ProShipLine has requested that the Court order the payment of the remaining funds in the impress account into an escrow account which will then be used to pay any judgment which ProShipLine obtains from AIL.

9. On October 12, 2007, without ProShipLine's knowledge, AIL filed for and obtained an order from the United States District Court for the Southern District of New York against EP Team for an attachment under the Admiralty Supplemental Rule B of the Federal Rules of Civil Procedure. I have attached hereto as Exhibit 2 a true and correct copy of the Complaint filed by AIL in the New York case (without exhibits).

10. On November 12, 2007, ProShipLine and EP Team received a notice from the New York counsel for AIL that US\$6,098.56 has been attached from an EP Team bank account at JP Morgan Chase Bank.

I declare under penalty of perjury that the foregoing is true and correct. Executed on November 15, 2007.



David R. Pulk